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August 25, 2008

The Honorable Bernard Zimmerman
U.S. District Court for the Northern District of California
450 Golden Gate Ave., Courtroom G, 15th Floor
San Francisco, CA 94102

Re: *SuccessFactors, Inc. v. Softscape, Inc.*; Case No.: CV08-1376 CW (BZ)

Dear Judge Zimmerman:

Beginning in late June, Softscape began corresponding with SuccessFactors regarding the need to conduct a meeting with SuccessFactors' IT manager, much like the meeting that counsel for SuccessFactors conducted with Softscape's IT manager. These requests related to the deficiencies with SuccessFactors' document production as of that date and Softscape's concerns that SuccessFactors had not conducted a satisfactory search (in terms of the servers and/or custodians searched) for responsive documents.

Then, during the discovery conference before your Honor that took place on July 3, 2008, undersigned raised the issue of Softscape's desire to conduct such an interview of SuccessFactor's IT manager. The purpose of such an interview would be to better understand, among other things, the IT network architecture, document repositories, servers, and other details of SuccessFactors electronic data. During a July 17, 2008 meet and confer session with counsel for SuccessFactors, lead counsel agreed to "identify a person to go through the inquiries you have in your letter with you and schedule a time for that. . ." Digital Recording of Meet and Confer of July 17, 2008 at 20:50 - 21:27. Following further correspondence from counsel for Softscape requesting a specific date for the meeting, SuccessFactors responded by indicating that it was no longer agreeable to producing an IT manager for purposes of the interview. Instead, SuccessFactors wrote a letter addressing certain issues it chose to address but ignoring a number of other issues that Softscape has raised that such a meeting is likely to resolve.

By way of example, Softscape wants to determine, among other things, the following:

- (a) The scope and thoroughness of SuccessFactors' ESI preservation and search efforts;
- (b) The identity of all ESI sources and custodians (i.e. hard drives and servers) that have been searched;
- (c) How SuccessFactors stores customer information pertaining to product implementation and support;

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(d) Specific technical information (i.e. architecture and infrastructure) pertaining to the ACE demo environment and its public webinars;

(e) SuccessFactors' methods and processes of logging and tracking access from external IP address;

(f) Overall IT system and network architecture;

(g) Whether SuccessFactors' CRM databases, and its Netsuite and ERP systems, which its Rule 30(b)(6) witness identified as containing highly relevant information, were included in its searches;

(h) Whether SuccessFactors maintains a database to track customer service and support tickets;

(i) Whether SuccessFactors maintains accounting systems to keep track of sales and other financial information;

Last week, I inquired again as to SuccessFactors' final position on the question (i.e. whether it was agreeable to producing a representative for an interview as it previously agreed to do or whether it was reneging on that agreement and refusing to produce an IT representative). I advised counsel for SuccessFactors that I needed to have an answer by noon on Monday August 25th (as this issue has been outstanding for approximately two months). As of noon today, I have not received a response one way or the other and must raise the issue with the Court in an effort to compel the requested (and previously agreed to) meeting.¹

Thank you for your consideration of the foregoing matter.

Respectfully submitted,

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

/s/ Bryan J. Sinclair

Bryan J. Sinclair
BJS/ak

¹ SuccessFactors has previously conducted a detailed inquiry, in a similar vein, of Softscape's IT manager. In addition, Softscape is producing a third party forensics expert for purposes of a technical meet and confer session on Wednesday August 27, 2008, consistent with the your Honor's order of last week.